

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DENNIS LEMONT KNIGHT,

Plaintiff,

v.

COLISEUM LEXUS OF OAKLAND,

Defendant.

Case No.17-cv-05332-JSC

**ORDER DISMISSING CASE FOR
FAILURE TO PROSECUTE**

Re: Dkt. Nos. 13, 14

In this civil action for breach of contract, Plaintiff Dennis Lemont Knight seeks to recover \$2 million in damages from Defendant Coliseum Lexus of Oakland following a vehicle repossession. (Dkt. No. 1.) The Court denied Plaintiff's application to proceed in forma pauperis without prejudice because Plaintiff had neither completed nor signed the application.¹ (Dkt. No. 6.) Plaintiff was ordered to file an amended motion to proceed in forma pauperis or pay the filing fee. Plaintiff thereafter paid the filing fee; however, the check was returned for insufficient funds. (Dkt. No. 11.) The Court then ordered Plaintiff to submit the filing fee of \$453.00 by November 3, 2017 and warned him that failure to do so could result in dismissal of this action for failure to prosecute. (Dkt. No. 13.) Instead of paying the filing fee, Plaintiff submitted a letter wherein he appears to dispute that his check was returned for insufficient funds stating that as a "private American" he "used what the Government has given me as a remedy, a negotiable Instrument." (Dkt. No. 14 at 1.) Plaintiff also states that "As an American and not a Corporate Fiction I am entitled to have a case opened with fee payment." (*Id.*)

The Court DISMISSES this action for failure to prosecute. Plaintiff's initial application to

¹ Plaintiff has consented to the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c). (Dkt. No. 8.)

1 proceed in forma pauperis was denied as incomplete. Rather than submitting an amended
2 application, Plaintiff elected to pay the filing fee; however, the check purporting to do so was
3 returned for insufficient funds. Although Plaintiff was given a further opportunity to pay the filing
4 fee, he elected not to do so, and instead, submitted a response which appears to dispute the
5 outstanding filing fee. The docket, however, clearly reflects an invoice from the Clerk's Office
6 stating that Plaintiff's check was returned for insufficient funds. (Dkt. No. 11.)

7 Accordingly, the Court dismisses this action without prejudice under Federal Rule of Civil
8 Procedure 41(b) for failure to prosecute.

9 **IT IS SO ORDERED.**

10 Dated: November 8, 2017

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13 JACQUELINE SCOTT CORLEY
14 United States Magistrate Judge
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CERTIFICATE OF SERVICE

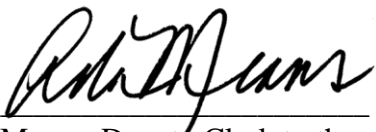
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 8, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Dennis Lemont Knight
1715 Julian Ct
El Cerrito, CA 94530

Dated: November 8, 2017

Susan Y. Soong
Clerk, United States District Court

By: 
Ada Means, Deputy Clerk to the
Honorable JACQUELINE SCOTT CORLEY